

810 KAR 1:060. Chemical dependency.

RELATES TO: KRS 230.215, 230.260(1), 230.290(2)(3), 230.310

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(3), 230.290(2), 230.310, 230.320(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260(3) provides the authority with the authority to promulgate necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted. KRS 230.260(9) allows the authority to establish safety standards for jockeys. KRS 230.290 provides that all licensees shall be subject to all administrative regulations promulgated by the authority. KRS 230.320 gives the authority the authority to promulgate administrative regulations that would result in disciplinary action being taken against a licensee. This administrative regulation prohibits licensees of the Kentucky Horse Racing Authority from abusing alcohol or engaging in illegal drug use or activity while performing their duties, provides for drug and alcohol testing, and establishes consequences for violations of this administrative regulation.

Section 1. Definitions. (1) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(2) "Association" is defined by KRS 230.210(1).

(3) "Authority" is defined by KRS 230.210(2).

(4) "Crimes involving drugs and drug paraphernalia" means all activities made illegal under KRS Chapter 218A, other statutes or administrative regulations of this Commonwealth, and similar laws and regulations of other states and the United States, which include the use, possession, or trafficking in marijuana, cocaine, or any other controlled substances; possession or distribution of drug paraphernalia, or obtaining or using prescription drugs without a valid prescription.

(5) "Documentation" means proof of regular attendance at meetings, counseling sessions, clean drug test results (if suspended for a drug violation), and certification from the treatment program indicating full compliance with treatment and completion of the program.

(6) "Drug paraphernalia" means all equipment, products and material of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body an illegal drug in violation of any law or administrative regulation of this Commonwealth, any state, or the United States.

(7) "Licensee" means a person who:

(a) Has been duly issued a current and valid license to participate in horse racing in this Commonwealth;

(b) Is actively involved with the day to day activities associated with the training and handling of a horse; and

(c) Is not attending or participating in the sales of horses conducted on the premises of associations.

(8) "Under the influence of intoxicants" means a person's mental or physical abilities are impaired by the presence of alcohol or other drugs in his body to the degree that the person is not able to safely and properly perform his job functions.

Section 2. Prohibited Activities. A licensee shall not:

(1) Be under the influence of intoxicants while:

(a) Engaged in the activities for which the license is held; and

(b) On association grounds;

- (2) Commit any crime involving drugs or drug paraphernalia;
- (3) Fail to comply with substance abuse treatment imposed pursuant to an evaluation conducted under this administrative regulation;
- (4) Tamper with a drug or alcohol test; or
- (5) Refuse to submit to drug or alcohol testing upon request of the authority, a steward or other authorized employee of the authority.

Section 3. Evidence of Violation. The following shall be presumptive evidence of a violation of this administrative regulation:

- (1) A breath or blood test result revealing an alcohol concentration of 0.05 percent or more while:
 - (a) Engaged in the activities for which the license is held; and
 - (b) On association grounds;
- (2) A positive result from a drug test for marijuana, cocaine, or other controlled substance for which the licensee does not have a current and valid prescription; or
- (3) A conviction in any court of law for a drug related offense.

Section 4. Discipline. (1) First offense.

- (a) For a first time violation of this administrative regulation, the offender's license shall be suspended.
- (b) The offender shall be required to undergo an evaluation by a professional in the field of addictive or substance abuse disorders approved by the authority.
- (c) If the evaluator determines the existence of a substance abuse problem, the offender shall be required to comply with the recommended course of treatment.
- (d) Upon the expiration of seven (7) calendar days from the date of the suspension, the offender may request to be reinstated by the authority stewards.
- (e) For a first time violation of this administrative regulation for an alcohol infraction or crime involving drugs and drug paraphernalia, the stewards shall have the discretion to impose a lesser penalty and may excuse the offense for counting purposes under this administrative regulation.

(2) Second offense.

- (a) For a second violation of this administrative regulation within a three (3) year period, the offender's license shall be suspended.
- (b) The offender shall be required to enroll in and complete a substance abuse program approved by the authority.
- (c) Upon the expiration of sixty (60) calendar days from the date of the suspension, the offender may request to be reinstated by the authority stewards.

(3) Third offense. A third violation of this administrative regulation within a three (3) year period shall result in the revocation of the offender's license.

(4) Zero tolerance offense. Conviction in any court of law of a drug trafficking offense shall result in revocation of the offender's license even if it is a first offense under this administrative regulation.

(5) Preexisting offenses. A previous violation of 810 KAR 1:025, Section 3(9) or (19), relating specifically to intoxication or drug addiction shall be counted as a previous offense under this section.

(6) Fines. Any offender under this administrative regulation may also be fined not less than fifty (50) dollars nor more than \$1,000, at the discretion of the authority or stewards, in addition to any suspension imposed.

(7) In determining the three (3) year period under this administrative regulation, the period shall be measured from the date on which the violation occurred. If the violation is a failure to complete recommended treatment, the violation date shall be calculated from the date of the first missed meeting, or session.

Section 5. Reinstatement after Suspension. (1) After first offense. To be reinstated the offender shall submit:

- (a) Documentation of the completed evaluation;
- (b) the recommendation of the evaluator in writing; and
- (c) If treatment is recommended, evidence of compliance with the imposed course of treatment.

(2) After second offense. To be reinstated the offender shall submit documentation of compliance with the imposed course of treatment.

(3) Continuing compliance with treatment.

(a) If an offender is reinstated before the completion of the imposed course of treatment, continuing compliance with treatment shall be required.

(b) Documentation of continued compliance and final completion of treatment shall be provided upon request to the stewards or other employee authorized by the authority.

(c) Failure to comply with and complete the imposed course of treatment after reinstatement shall be deemed an additional violation.

Section 6. Drug and Alcohol Testing. In deciding when drug tests should be administered the stewards may require:

(1) All licensees be tested on a particular day;

(2) Licensees on a particular day be tested totally at random; or

(3) Those licensees that the stewards have a reasonable suspicion may be under the influence of intoxicants submit to drug and alcohol testing.

Section 7. Payment for Expenses Related to this Administrative Regulation. Licensees shall be responsible for all or part of the expenses associated with violating this administrative regulation, including the cost of treatment and reinstatement of the license. The responsibility for payment of expenses shall be as follows:

(1) For a first offense, the offender's responsibility for costs shall be at the discretion of the stewards or other authorized authority employee and shall be based on the offender's ability to pay.

(2) For a second offense, the offender shall bear all costs.

(3) For a drug or alcohol test initiated by the authority to determine if a violation has occurred, the authority shall bear the cost unless the test reveals a violation. If the test reveals a violation, subsections (1) and (2) of this section shall apply.

(4) Failure to pay any costs imposed shall be grounds for denial of reinstatement.

Section 8. Administration of Administrative Regulation. The authority shall employ a competent individual to oversee and assist in the administration of this administrative regulation. The stewards of the authority shall enforce this administrative regulation under the direction of the authority and its authorized employee. (26 Ky.R. 1464; Am. 1851; 27 Ky.R. 125; eff. 7-17-2000; TAm eff. 8-9-2007.)